

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PATRICIA HARDIMON)	CASE NO. 1:20-cv-246
<i>on behalf of herself and all other similarly-</i>)	
<i>situated individuals,</i>)	JUDGE PAMELA A. BARKER
)	
Plaintiff,)	MAGISTRATE GREENBERG
)	
v.)	
)	
NVENT THERMAL, LLC, et al,)	
)	
Defendants.)	

JOINT STIPULATION TO CONDITIONAL CERTIFICATION OF FLSA CLASS UNDER
29 U.S.C. §216(b)

Plaintiff Patricia Hardimon and Defendant ERICO International Corporation (“ERICO”), by and through their respective counsel, and pursuant to 29 U.S.C. § 216(b), hereby file this joint stipulation indicating their agreement to the conditional certification of a class of individuals regarding Plaintiff’s claims under the Fair Labor Standards Act (“FLSA”) as follows:

1. Plaintiff filed her Complaint on February 5, 2020. In her Complaint, Plaintiff seeks to represent herself and all former and current individuals employed by Defendants nVent Thermal, LLC and/or ERICO who were paid on an hourly basis at any time between February 5, 2017 and the present. *See* Compl., ECF No. 1 at ¶23.

2. Counsel for the Parties have discussed the most efficient means of proceeding in this litigation and have agreed to stipulate to conditional certification of the following collective class pursuant to 29 U.S.C. § 216(b) of the FLSA:

All former and current non-exempt production employees of ERICO, a subsidiary of nVent Electric plc, who worked at ERICO’s ECN and/or ESN manufacturing facilities in Solon, Ohio at any time between February 5, 2017 and the present (the “FLSA Class”).

3. By entering into this Stipulation, the Parties agree that ERICO has not and does not waive any objections, defenses, or arguments against the ultimate certification of an FLSA class or a class under the Ohio Minimum Fair Wage Standards Act (“OMFWSA”) or O.R.C. § 4113.15 (Ohio’s “Prompt Pay Act”). The Parties agree that ERICO shall retain the right to dispute whether Plaintiff and any FLSA Class members can meet their ultimate burden to demonstrate they are “similarly situated” under § 216(b) of the FLSA and/or request decertification of the FLSA class. This Stipulation shall in no way affect ERICO’s right to file a motion to decertify the stipulated, conditionally certified FLSA class, nor shall it in any way prejudice ERICO’s substantive arguments in support of such a motion. ERICO disputes all claims made by Plaintiff in this action and has agreed to this conditional certification and sending of Notice solely as a means of expediting this litigation and not as an admission of any wrongdoing or liability of any kind, which it intends to actively dispute and defend against in this litigation.

4. The Parties have attached for Court approval their proposed Notice to the FLSA Class (“Notice”) and their proposed Consent Form (“Consent”) as Exhibit A. Because the close of the stipulated opt-in period is dependent upon the mailing date, the Parties will update that portion of the notice upon mailing. A placeholder of “TBD” has been included in Exhibit A.

5. Within thirty (30) days of the Court’s Order adopting this Stipulation and approving the attached Notice and Consent, ERICO’s counsel shall deliver to Plaintiff’s counsel an electronic spreadsheet that contains the name and last known home address (as maintained by ERICO) of each FLSA Class member (the “FLSA Class List”).

6. Within fourteen (14) days of ERICO providing the FLSA Class List, Plaintiff’s counsel shall mail the Notice and Consent to the members of the FLSA Class. Plaintiff shall bear all initial costs of issuing such Notice. Plaintiff’s counsel shall not use any information contained in the FLSA Class List to engage in any other distributions, correspondence or communication with any

member of the FLSA Class unless and until such individual has completed and signed a Consent to Join form.

7. To be included in the FLSA Class, each FLSA Class member must return a completed, signed Consent to Join form postmarked within thirty (30) days of the date that the Notice and Consent are first mailed by Plaintiff's counsel.

8. Contemporaneous with any and all notifications to the FLSA Class, Plaintiff's counsel shall produce to ERICO's counsel a list of all such notices sent to the FLSA Class with the date of such mailing.

9. Pursuant to 29 U.S.C. §§ 216 and 256, Plaintiff will timely file each Consent to Join form upon receipt to commence the claim of any individual claimant upon the date such Consent is filed with the Court.

10. Consistent with the Tolling Agreement voluntarily entered into between the Parties, no statute of limitations on any claim under the FLSA or Ohio law related to the payment of wages shall run against the FLSA Class until the close of the conditional notice opt-in period applicable to the FLSA Class as ordered by the Court.

WHEREFORE, the Parties respectfully request that the Court enter an order approving the terms of this Stipulation and approving the Notice and Consent attached hereto as Exhibit A.

Date: June 29, 2020

Respectfully submitted,

THE FUCHS FIRM LLC

/s/ Joshua B. Fuchs
Joshua B. Fuchs (0087066)
14717 South Woodland Road
Shaker Heights, Ohio 44120
Phone: (216) 505-7500
Fax: (216) 505-7500
Email: josh@fuchsfirm.com

HUX LAW FIRM, LLC

/s/ James J. Hux
James J. Hux (0092992)
3 Severance Circle #18147
Cleveland Heights, OH 44118
Phone: (937) 315-1106
Fax: (216) 359-7760
Email: jhux@huxlawfirm.com

Counsel for Plaintiff Patricia Hardimon

AND

/s/ Carrie A. McAtee (per consent)
SHOOK, HARDY & BACON L.L.P.
Carrie A. McAtee, admitted *pro hac vice*
2555 Grand Boulevard
Kansas City, Missouri 64108-2613
Telephone: (816) 474-6550
Facsimile: (816) 421-5547
Email: cmcatee@shb.com

BLACK, McCUSKEY, SOUERS & ARBAUGH
Gust Callas (#0015815)
Whitney L. Willits (#0089728)
220 Market Avenue South, Suite 1000
Canton, Ohio 44702
Ph: (330) 456-8341
Fax: (330) 456-5756
Email: gcallas@bmsa.com
wwillits@bmsa.com

*Counsel for Defendants nVent Thermal LLC and
ERICO International Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of June, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties who have made an appearance by operation of the Court's electronic filing system and those parties may access the filing through the Court's system.

/s/ Joshua B. Fuchs